IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15907 of 2025
and
W.M.P.Nos.17994 and 17996 of 2025

M/s.Unique India Construction,
Represented by its Proprietor,
Mr.Nikil Champa Lal Jain,
No.92A, Dr.Alagappa Road,
Purasawakkam, Chennai-600 084. ...Petitioner

Vs.

The Deputy State Tax Officer-1,
Purasawakkam Assessment Circle,
F/50, First Floor, First Avenue,
Anna Nagar (East),
Chennai- 600 102. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in FORM-DRC-01 dated 07/09/2023 and the consequential order of assessment in GSTIN:33AHBPJ3791R1ZV/2017-18 dated 30/12/2023 and quash the same and further direct the respondent to accept the payment made by the petitioner towards the Integrated Goods and Service Tax Rs.1,48,61,562/- on the import of goods which are also reported in the monthly returns in GSTR-3B under the Goods and Service Tax Act, 2017.

For Petitioner : Mr.P.Arumugam

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the show cause notice dated 07.09.2023 and the consequential assessment order dated 30.12.2023 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the GST registration of the petitioner was cancelled on 03.01.2022. Thereafter, the respondent issued a show cause notice in Form DRC 01 on 07.09.2023 by uploading the same in the GST portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of the show cause notice and failed to file reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. The petitioner came to know of the impugned order only after getting information from the office of the respondent. Further, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that GST registration of the petitioner was cancelled on 03.01.2022 and thereafter the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

6. No doubt sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

7. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned assessment order passed by the respondent dated 30.12.2023 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply to the show cause notice dated 07.09.2023 along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.04.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer-1,
Purasawakkam Assessment Circle,
F/50, First Floor, First Avenue,
Anna Nagar (East),
Chennai- 600 102.

Krishnan Ramasamy,J.,

arr

W.P.No.15907 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

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and
W.M.P.Nos.17994 and 17996 of 2025

M/s.Unique India Construction,
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For Petitioner : Mr.P.Arumugam

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This matter has been listed under the caption 'For Being Mentioned'.

2. In the prayer portion of the order dated 30.04.2025 made in the aforesaid writ petition, inadvertently in the third line the word ***FORM-DRC-01*** was wrongly typed instead of '***FORM GST-DRC-01***'

3. Registry is directed to carry out the aforesaid correction and issue fresh order copy to the parties concerned.

20.06.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

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F/50, First Floor, First Avenue,
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